



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/588,037

05/21/2007

Thomas Arnebrant

30986/42246

3658

4743

7590

06/16/2008

MARSHALL, GERSTEIN & BORUN LLP  
233 S. WACKER DRIVE, SUITE 6300  
SEARS TOWER  
CHICAGO, IL 60606

EXAMINER

HOFFMAN, SUSAN COE

ART UNIT

PAPER NUMBER

1655

MAIL DATE

DELIVERY MODE

06/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,037	<b>Applicant(s)</b> ARNEBRANT ET AL.	
	<b>Examiner</b> Susan Coe Hoffman	<b>Art Unit</b> 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendment filed March 13, 2008 has been received and entered. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior Office action.
2. Claims 26-35 have been added in this amendment.
3. Claims 18-35 are pending.

### ***Claim Rejections - 35 USC § 103***

4. Claims 18-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Attstrom (US 5,260,282) in view of O'Mullane (WO 93/16707) for the reasons set forth in the previous Office action.

All of applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive. Applicant argues that an artisan of ordinary skill would not produce the solid, dried linseed extract claimed starting from the O'Mullane disclosure. Applicant argues that O'Mullane does not have the adsorption characteristics claimed. Applicant also argues that the solid, dried linseed extract claimed could not have been predicted from the prior art. In addition, applicant argues that Attstrom does not cure the deficiencies of O'Mullane and that the extract of Attstrom does not have the adsorption characteristics claimed.

These arguments are not persuasive. The rejection has been set forth as Attstrom in view of O'Mullane. Thus, the starting point for the rejection is Attstrom, not O'Mullane as asserted by applicant. Applicant's specification specifically teaches that the linseed extracts in Attstrom have the adsorption characteristics claimed (see page 16). Thus, the extracts of Attstrom must have the same adsorption characteristics claimed. Attstrom does not specifically teach using the dried,

Art Unit: 1655

solid product itself. However, O'Mullane demonstrates that it was known in the art at the time of the invention to formulate linseed extracts into dosage forms that remain in the oral cavity when administering linseed extract to treat conditions associated with the oral cavity (see page 4, first full paragraph). O'Mullane also discusses using this extract to treat xerostomia (see page 2).

Thus, an artisan would recognize that the oral cavity conditions discussed on page 4 include xerostomia because this is a condition of the oral cavity. The artisan would then recognize that O'Mullane teaches the use of oral dosage forms such as lozenges to treat xerostomia. This shows that it was known in the art at the time of the invention to use solid dosage forms for administration of linseed to treat xerostomia. Therefore, an artisan of ordinary skill in the art would reasonably expect that using the dosage forms taught by O'Mullane to administer the dried linseed extract taught by Attstrom would be successful. This reasonable expectation of success would motivate the artisan to modify Attstrom to include administration of the dried, solid linseed powder in forms that could be retained in the oral cavity such as a lozenge, tablet, powder or capsule. Thus, since the prior art specifically teaches applicant's claimed method, there is not considered to be any unexpected advantages between the prior art and the claimed invention.

New claims 26-35 contain limitations that have been moved from claims 19-25. Thus, these new claims are considered obvious based on the reasons set forth in the previous Office action for claims 19-25.

5. No claims are allowed.

Art Unit: 1655

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Coe Hoffman whose telephone number is (571) 272-0963. The examiner can normally be reached on Monday-Thursday, 9:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 1655

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Susan Coe Hoffman/

Primary Examiner, Art Unit 1655